IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO.1008 OF 2007

Kesar Enterprises Ltd. ..Petitioner

Vs.

K.C.Sarangi & Ors. ..Respondents

Mr.P.J.Pardiwalla with Sanidha Vedpathak
i/b.Maneksha & Sethna for the Petitioner.
Mr.A.S.Rao for the Respondents.

CORAM :- DR.S.RADHAKRISHNAN &
V.C.DAGA, JJ.

DATE : 30TH APRIL, 2007

P.C.

1. Heard the learned Counsel for the parties.

Rule. Rule is made returnable forthwith. The learned Counsel for the Respondents waives service. By consent, taken up for hearing.

2. By this Petition, the Petitioner is challenging the order dated 14/03/2007 passed by the Commissioner of Income Tax-I, Mumbai under Section 127(2) of the Income Tax Act,1961. We have perused the provisions of Section 127(1) and 127(2) of the Income Tax Act,1961. It appears that the Petitioner was given a Notice dated 08/11/2006 by the Income Tax Office, proposing therein to transfer the Petitioner's case record to DCIT, Central Circle-19, New Delhi.

3. With regard to the aforesaid proposal, the Petitioner had raised his objection. The Petitioner,

by letter dated 10/11/2006 had raised categorical objections contending that there was no case made out for such transfer. The provisions under Section 127(2) clearly contemplates that a fair and reasonable opportunity of hearing should be given, which was admittedly not given to the Petitioner in the above matter. The provisions of Section 127(1) and 127(2) further clearly contemplates that the reasons should be recorded while passing an order. Admittedly, the impugned order does not contain any reasons whatsoever. Even the show cause notice does not give clear reasons why the proposal was made for such a transfer, so as to enable the Petitioner to meet the same. Under these facts and circumstances of the case, we quash and set aside the impugned order dated 14/03/2007.

4. However, we grant liberty to the Respondents to issue a proper show cause notice giving reasons as to why the Assessee's case should be transferred from Bombay to New Delhi and thereafter after affording an opportunity of personal hearing to the Petitioner, the Respondents may pass appropriate order with reasons.

5. Rule is made absolute accordingly.

(V.C.DAGA,J.) **(DR.S.RADHAKRISHNAN,J.)**